IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 944 of 2005

Between:

Dekarapu Ganga Ratnam,

W/o.Late Surya Rao,

Aged about 51 years,

Occ:Business,

R/o.Tekkinavarigudem Village,

Jaggareddygudem Mandal,

West Godavari District.

..... PETITIONER

AND

1. The Eastern Power Distribution

Company of A.P. Limited,

Rep. by its Managing Director,

Vishakapatnam.

2. Assistant Divisional Engineer (Operations),

Eastern Power Distribution Company

of A.P. Limited, Jangareddygudem,

West Godavari District.

3. The Divisional Engineer (Assessments),

APEPCEL, Rajahmundry,

West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus by declaring the notice dated 18-01-2005 in Lr.No.ADE/O/JRG/F.DKT/D.No.52/2005 as illegal, arbitrary and unconstitutional and set aside the same.

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY

Counsel for the Respondents: MR.M.SREERAMULU REDDY, SC for APSEB

The Court at the admission stage made the following :

ORDER:

The petitioner was issued an order of provisional assessment, dated 18.01.2005 indicating that the inspection conducted on the service connection of the petitioner revealed that there was pilferage of power valued at Rs.1,38,750/-. The petitioner was required to pay half of the said amount being Rs.69,375/- to ensure continuance of power supply. Petitioner feels aggrieved by the same.

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner was served with an order of provisional assessment and further steps are required to be taken in accordance with Section 126 of the Electricity Act, 2003. The Section does not provide for payment of any amount covered by the order of provisional assessment. It is only after an order of final assessment is passed that the actual liability of the same would arise. In W.A.Nos.452 and 477 of 2004, a Division Bench of this Court through its order, dated 11.03.2004 held that a consumer can not be required to make any payment on the strength of an order of provisional assessment.

Following the same, the writ petition is allowed and it is directed that the power supply to the petitioner shall be continued/restored, as the case may be, without

insisting on payment of any amount on the strength of the order of provisional assessment. He shall be liable to pay the amount only after an order of final assessment is passed. It is further directed that the continuance of power supply to the petitioner shall be subject to payment of the consumption charges by the petitioner. There shall be no order as to costs.

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28.01.2005

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1. The Eastern Power Distribution

Company of A.P. Limited,

Rep. by its Managing Director,

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2. Assistant Divisional Engineer (Operations),

Eastern Power Distribution Company

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4. Two CD copies.